

NOT FOR PUBLICATION

NOV 19 2007

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ATTA PATRICK UYANGA, a.k.a. Paul  
Uyanga,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-72314

Agency No. A35-201-602

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted November 13, 2007 \*\*

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

Atta Partick Uyanga challenges a Board of Immigration Appeals' ("BIA")  
order denying his motion to reopen as untimely.

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

The BIA did not abuse its discretion in denying petitioner's motion to reopen as untimely. *See* 8 C.F.R. § 1003.2(c)(2); *Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002) (BIA's denial of a motion to reopen is reviewed for abuse of discretion). The BIA's final administrative order of removal was issued on February 5, 2003. Petitioner filed his motion to reopen on November 2, 2006, more than 90 days after the date on which the BIA rendered its final administrative order of removal. *See* 8 C.F.R. § 1003.2(c)(2). Accordingly, respondent's unopposed motion for summary disposition in part is granted. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

To the extent petitioner seeks review of the BIA's decision not to exercise its authority to reopen sua sponte, the court lacks jurisdiction to review the BIA's discretionary decision. *See Ekimian v. INS*, 303 F.3d 1153, 1160 (9th Cir. 2002). Accordingly, respondent's unopposed motion to dismiss in part is granted.

All other pending motions are denied as moot.

The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED in part and DISMISSED in part.**